

EXHIBIT B

dictionary definitions, citations to learned treatises and prior art, *and testimony of percipient and expert witnesses*;

(emphasis added.) The Court has clarified that “a party who intends to rely on a sworn expert declaration must ‘clearly indicate’ in the joint claim construction statement that it intends to rely on a sworn declaration; identify the declarant; and identify the precise disputed claim terms which will be addressed thereby.” *Innovative Display Techs. LLC v. Acer Inc.*, 2:13-cv-00522-JRG, 2014 U.S. Dist. LEXIS 94211, at *4–5 (E.D. Tex. July 11, 2014).

It is clear to the Court that Plaintiffs made no such disclosures in either the Joint Claim Construction and Prehearing Statement nor the accompanying exhibits detailing Plaintiffs’ proposed constructions and evidence. (*See* Dkt. Nos. 45, 45-2.) Accordingly, the Court finds that Plaintiffs failed to timely disclose Mr. Easttom’s testimony under P.R. 4-3. The Court **GRANTS-IN-PART** the Motion and **STRIKES** Mr. Easttom’s Declaration and any reference to such in Plaintiffs’ Reply Claim Construction Brief.

The Court notes that Defendants seek their “costs and fees for this Motion in light of Uniloc’s failure to provide any basis for its untimely disclosure of extrinsic evidence.” (Dkt. No. 65 at 2 n.1). The inclusion of such a request as a single sentence in a footnote and devoid of any analysis indicates to the Court that such a request is not well taken. Accordingly, the Court **DENIES-IN-PART** the Motion as to such request.

So Ordered this

Oct 11, 2018



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE